

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1112 be amended to read as follows:

- 1 Page 2, after line 8, begin a new paragraph and insert:
- 2 "SECTION 2. IC 35-50-2-2 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The court may
- 4 suspend any part of a sentence for a felony, except as provided in this
- 5 section or in section 2.1 of this chapter.
- 6 (b) With respect to the following crimes listed in this subsection, the
- 7 court may suspend only that part of the sentence that is in excess of the
- 8 minimum sentence, unless the court has approved placement of the
- 9 offender in a forensic diversion program under IC 11-12-3.7:
- 10 (1) The crime committed was a Class A or Class B felony and the
- 11 person has a prior unrelated felony conviction.
- 12 (2) The crime committed was a Class C felony and less than seven
- 13 (7) years have elapsed between the date the person was discharged
- 14 from probation, imprisonment, or parole, whichever is later, for a
- 15 prior unrelated felony conviction and the date the person
- 16 committed the Class C felony for which the person is being
- 17 sentenced.
- 18 (3) The crime committed was a Class D felony and less than three
- 19 (3) years have elapsed between the date the person was discharged
- 20 from probation, imprisonment, or parole, whichever is later, for a
- 21 prior unrelated felony conviction and the date the person
- 22 committed the Class D felony for which the person is being
- 23 sentenced. However, the court may suspend the minimum
- 24 sentence for the crime only if the court orders home detention
- 25 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
- 26 sentence specified for the crime under this chapter.
- 27 (4) The felony committed was:
- 28 (A) murder (IC 35-42-1-1);
- 29 (B) battery (IC 35-42-2-1) with a deadly weapon or battery
- 30 causing death;
- 31 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
- 32 (D) kidnapping (IC 35-42-3-2);

- 1 (E) confinement (IC 35-42-3-3) with a deadly weapon;
- 2 (F) rape (IC 35-42-4-1) as a Class A felony;
- 3 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
- 4 felony;
- 5 (H) child molesting (IC 35-42-4-3) as a Class A or Class B
- 6 felony;
- 7 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or
- 8 with a deadly weapon;
- 9 (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily
- 10 injury;
- 11 (K) burglary (IC 35-43-2-1) resulting in serious bodily injury
- 12 or with a deadly weapon;
- 13 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
- 14 weapon;
- 15 (M) escape (IC 35-44-3-5) with a deadly weapon;
- 16 (N) rioting (IC 35-45-1-2) with a deadly weapon;
- 17 (O) dealing in cocaine, a narcotic drug, or methamphetamine
- 18 (IC 35-48-4-1) if the court finds the person possessed a firearm
- 19 (as defined in IC 35-47-1-5) at the time of the offense, or the
- 20 person delivered or intended to deliver to a person under
- 21 eighteen (18) years of age at least three (3) years junior to the
- 22 person and was on a school bus or within one thousand (1,000)
- 23 feet of:
- 24 (i) school property;
- 25 (ii) a public park;
- 26 (iii) a family housing complex; or
- 27 (iv) a youth program center;
- 28 (P) dealing in a schedule I, II, or III controlled substance (IC
- 29 35-48-4-2) if the court finds the person possessed a firearm (as
- 30 defined in IC 35-47-1-5) at the time of the offense, or the
- 31 person delivered or intended to deliver to a person under
- 32 eighteen (18) years of age at least three (3) years junior to the
- 33 person and was on a school bus or within one thousand (1,000)
- 34 feet of:
- 35 (i) school property;
- 36 (ii) a public park;
- 37 (iii) a family housing complex; or
- 38 (iv) a youth program center;
- 39 (Q) an offense under IC 9-30-5 (operating a vehicle while
- 40 intoxicated) and the person who committed the offense has
- 41 accumulated at least two (2) prior unrelated convictions under
- 42 IC 9-30-5;
- 43 (R) an offense under IC 9-30-5-5(b) (operating a vehicle while
- 44 intoxicated causing death); ~~if the person had:~~
- 45 ~~(i) at least fifteen-hundredths (0.15) gram of alcohol per one~~
- 46 ~~hundred (100) milliliters of the person's blood; or at least~~
- 47 ~~fifteen-hundredths (0.15) gram of alcohol per two hundred~~
- 48 ~~ten (210) liters of the person's breath; or~~

- 1 (ii) a controlled substance listed in schedule I or II of
 2 IC 35-48-2 or its metabolite in the person's blood; or
 3 (S) aggravated battery (IC 35-42-2-1.5).
- 4 (c) Except as provided in subsection (e), whenever the court
 5 suspends a sentence for a felony, it shall place the person on probation
 6 under IC 35-38-2 for a fixed period to end not later than the date that
 7 the maximum sentence that may be imposed for the felony will expire.
- 8 (d) The minimum sentence for a person convicted of voluntary
 9 manslaughter may not be suspended unless the court finds at the
 10 sentencing hearing that the crime was not committed by means of a
 11 deadly weapon.
- 12 (e) Whenever the court suspends that part of an offender's (as
 13 defined in IC 5-2-12-4) sentence that is suspendible under subsection
 14 (b), the court shall place the offender on probation under IC 35-38-2 for
 15 not more than ten (10) years.
- 16 (f) An additional term of imprisonment imposed under
 17 IC 35-50-2-11 may not be suspended.
- 18 (g) A term of imprisonment imposed under IC 35-47-10-6 or
 19 IC 35-47-10-7 may not be suspended if the commission of the offense
 20 was knowing or intentional.
- 21 (h) A term of imprisonment imposed for an offense under
 22 IC 35-48-4-6(b)(1)(B) may not be suspended."
- (Reference is to EHB 1112 as printed March 25, 2005.)

Senator YOUNG R MICHAEL